

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

**MARIA DE LOS ANGELES RIVERA-
RANGEL**, a/k/a Angie
ANGEL LUIS OCASIO-RAMOS

Defendant

CRIMINAL 02-0098CCC

O R D E R

Having considered the Motion for Bail Pending Appeal filed by defendant María de los Angeles Rivera-Rangel on July 7, 2005 (**docket entry 194**), the same is DENIED since the two appellate issues that she has presented to our consideration fail to raise substantial questions of law or fact likely to result in reversal of her conviction, new trial or re-sentencing. 18 U.S.C. 3143(b)(1)(B). While defendant impugns the term of imprisonment of 48 months imposed upon her as part of her sentence as being unreasonable mainly because it fell outside the sentencing calculations recommended by the U.S. Probation Officer in her Pre-Sentence Report, she forgets that the sentencing guidelines are but one of several factors which the Court must take into consideration when imposing sentence. See 18 U.S.C. 3553(a). The Court's sentence was based on all those statutory factors, not merely the sentencing guidelines.

Defendant's additional contention that a Brady violation occurred in this case based on the claim that co-defendant Angel Ocasio-Ramos must have had a cooperation agreement with the government which was never disclosed to her is equally vapid. In order to establish a Brady violation defendant must show a reasonable probability that had the evidence been disclosed the result of the proceeding would have been different. United States v. Bagley, 473 U.S. 667, 682, 105 S.Ct. 3375 (1985). But, as the Court of Appeals observed precisely on this same

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issue earlier this year, "even if the jury had ignored all evidence pertaining to Ocasio, there was still ample evidence relating to Rivera's relationship with [José] Ventura to convict." United States v. Rivera-Rangel, 396 F.3d 476, 486 (1st Cir. 2005).

SO ORDERED.

At San Juan, Puerto Rico, on July 12, 2005.

S/CARMEN CONSUELO CEREZO
United States District Judge